

**REMARKS**

Favorable reconsideration of this application, in light of the preceding amendments and following discussion, is respectfully requested.

Claims 1-31 are pending in this application. Claims 1, 2, 6, 7, 9, 14-17, 19-21, 25, 26, 28, 30 and 31 are amended.

Applicant notes with appreciation the indication that dependent claims 2 and 21 and the claims dependent therefrom contain allowable subject matter and thus, would be allowable if rewritten to overcome the 35 U.S.C. §112, second paragraph rejections.

Applicant also notes with appreciation the Examiner's acknowledgement that certified copies of all priority documents have been received by the USPTO, and that the drawings have been accepted by the USPTO.

**Information Disclosure Statements**

Applicant respectfully requests that the Examiner provide, with the next official communication from the USPTO, an initialed PTO-Form 1449 for the reference U.S. Patent No. 5,248,876 included in the Information Disclosure Statement filed February 18, 2005. Applicant notes that the Examiner signed the bottom of a PTO-Form 1449 including U.S. Patent No. 5,248,876, but failed to initial beside U.S. Patent No. 5,248,876.

Applicant notes with appreciation the indication that the reference included in the Information Disclosure Statement filed September 12, 2003 has been considered.

**Claim Rejections under 35 U.S.C. § 112**

Claims 1-31 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicant regards as the invention.

In response to the Examiner's indication that it is unclear what the terms "optical input" and "optical output" refer, attached as an appendix to this Amendment is a marked version of FIG. 1, clearly labeling the optical inputs and optical outputs. Further, Applicants respectfully submit that amended dependent claims 14-17, 25 and 26 provide further clarification of the optical inputs and optical outputs.

With respect to the rejections regarding the language "implemented by way of", "same point", "same place" and "sideways", Applicant respectfully submits that the amended claims are believed to overcome these rejections by clarifying and/or removing the objected-to language from the claims.

In light of the claim amendments and appendix, Applicant respectfully requests that the rejections to claims 1-31 under 35 U.S.C. §112, second paragraph be withdrawn.

**Claim Rejections under 35 U.S.C. § 102(b)**

Claims 20, 24, 26, 27 and 30 stand rejected under 35 U.S.C. § 102(b) as anticipated by Picard (U.S. Patent No. 4,965,411). Applicant respectfully traverses this rejection as detailed below.

Amended independent claim 20 is directed to a sensor for optical displacement measurement in accordance with a confocal imaging principle. Amended independent claim 20 recites, *inter alia*, "optic means for directing the two merged illumination beams onto a surface

of a measurement object, and for creating a first real image of the first optical output means and a second real image of the second optical output means at different distances from the optic means, *the different distances stemming from a first distance between the first optical output means and the means for merging and a second distance between the second optical output means and the means for merging, the first distance is different than the second distance.*”

Independent claim 30 is directed to a method of optical displacement measurement using a sensor and includes features somewhat similar to independent claim 20. As described in the Applicant's specification, at least at page 10, paragraph [0029], real images 160a and 160b in FIG. 1 are formed at different heights because of the difference between a first distance between the first diaphragm matrix 120a and the beam splitter 130 and a second distance between the second diaphragm matrix 120b and the beam splitter 130.

Picard is directed a method for a scanning confocal light-optical microscopic and in depth examination of an extended field. The Examiner indicates that lens 3 in FIG. 3 of Picard directs merged beams onto a surface at different distances from the lens 30 as shown by  $z_1, z_2 \dots z_n$ . However, Applicant respectfully notes that the different heights of altitudes  $z_1, z_2 \dots z_n$  of the focusing points in FIGS. 3, 4, 5 and 7 of Picard are a result of different wavelengths of the secondary beams transmitted by the luminous source 11, which are focused and filtered by various focusing and filtering means.

Accordingly, Applicant respectfully submits that Picard at least fails to disclose, teach or suggest “*the different distances stemming from a first distance between the first optical output means and the means for merging and a second distance between the second optical output means and the means for merging, the first distance is different than the second distance.*” as recited in independent claim 20 or the somewhat similar features recited in independent claim

30. Claims 24, 26 and 27 depend from independent claim 20 and thus, are distinguished over Picard for at least the same reasons as described above with respect to independent claim 20.

In light of the above, Applicant respectfully requests that the rejection of claims 20, 24, 26, 27 and 30 under 35 U.S.C. §102(b) be withdrawn.

**Claim Rejections under 35 U.S.C. §103(a)**

Claim 28 stands rejected under 35 U.S.C. §103(a) as unpatentable over Picard; claims 1 and 31 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Picard; and claims 6, 15 and 25 stand rejected under 35 U.S.C. §103(a) as unpatentable over Picard in view of Makita (U.S. Patent No. U.S. Patent No. 5,017,796).

Applicant respectfully submits that each of the independent claims, *i.e.*, claims 1, 20, 30 and 31, all include features at least somewhat similar to the features of independent claim 20, which Picard fails to disclose, teach or suggest as explained above regarding the 35 U.S.C. §102(b) rejection.

Accordingly, Applicant respectfully submits that each of the independent claims, and the claims depending therefrom, are patentably distinguished over Picard as explained above.

Further, Makita, which is used in combination with Picard to reject the claims 6, 15 and 25 including an optical waveguide, also fails to disclose teach or suggest “the different distances stemming from a first distance between the first optical output means and the means for merging and a second distance between the second optical output means and the means for merging, the first distance is different than the second distance,” as recited in independent claim 20 or the somewhat similar features recited in independent claims 1, 30 and 31.

Accordingly, Applicant respectfully submits that even if Picard and Makita are combinable, which the Applicant does not admit, the combination would still fail to disclose,

teach or suggest the above-emphasized features of independent claim 20 or the somewhat similar features recited in independent claim 1 from which claims 6, 15 and 25.

In light of the above, Applicant respectfully requests that the rejection of claims 1, 6, 15, 25, 28 and 31 under 35 U.S.C. § 103(a) be withdrawn.

**CONCLUSION**

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-31 in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a two (2) month extension of time for filing a reply to the outstanding Office Action and submit the required \$450 extension fee herewith.

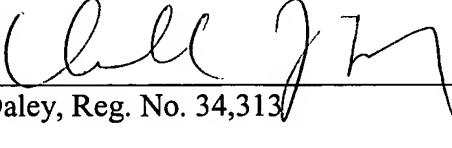
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Donald J. Daley at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

  
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